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Chairman: Mr. Pulido Léon (Vice-Chairman) ..... (Venezuela)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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In the absence of Mr. Kmoníček (Czech Republic), Mr. Pulido Léon (Venezuela), Vice-Chairman, took the Chair.

The meeting was called to order at 9.35 a.m.

Agenda item 131: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/58/269, A/58/366, A/58/367, A/58/368, A/58/550, A/58/554, A/58/597 and A/58/605)

Agenda item 132: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/58/226, A/58/288, A/58/368, A/58/449, A/58/593 and A/58/605)

1. **Mr. Halbwachs** (Controller) introduced, under agenda item 131, the report of the Secretary-General on the budget for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2004-2005 (A/58/269), the comprehensive report of the Secretary-General on the progress made by the International Criminal Tribunal for Rwanda in reforming its legal aid system (A/58/366), the report of the Secretary-General on the supplementary estimates arising in respect of Security Council resolution 1503 (2003) on the creation of a new position of Prosecutor of the International Criminal Tribunal for Rwanda (A/58/368), the report of the Secretary-General on the revised estimates arising in respect of Security Council resolution 1512 (2003) on the establishment of five additional ad litem judges in the International Criminal Tribunal for Rwanda (A/58/550), and the second performance report of the International Criminal Tribunal for Rwanda for the biennium 2002-2003 (A/58/597), and, under agenda item 132, the report of the Secretary-General on the budget for the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2004-2005 (A/58/226), the comprehensive report of the Secretary-General on the progress made by the International Criminal Tribunal for the Former Yugoslavia in reforming its legal aid system (A/58/288) and the second performance report of the International Criminal Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/58/593). He also drew attention to a note by the Secretary-General (A/58/367), in which it was proposed that, since the Security Council had yet to take action on the issue of the long-term financial obligations of the United Nations with regard to the enforcement of sentences imposed by the International Criminal Tribunal for Rwanda, the General Assembly should continue the temporary arrangements referred to in paragraph 9 of resolution 57/289.

2. A total of $251.4 million gross was required for the International Criminal Tribunal for Rwanda for the biennium 2004-2005. That figure reflected both the initial estimate, which amounted to $235.2 million gross in nominal terms (A/58/269), and additional requirements of $4 million gross for the creation of a new position of Prosecutor of the International Criminal Tribunal for Rwanda (A/58/368) and $12.2 million gross for the appointment of five additional ad litem judges (A/58/550).

3. The growth in the overall requirements for 2004-2005, compared with the revised appropriation for 2002-2003, was due mainly to the impact of changes in inflation, offset by a decrease in exchange rates. Also, provision had been made for the delayed impact of the 109 new posts and the four ad litem judges approved for 2002-2003 but only partly funded in that biennium. In addition, seven new posts, including that of the Prosecutor, were requested for the immediate Office of the Prosecutor, as well as 45 temporary posts in connection with the appointment of the five additional ad litem judges. The creation of the position of Prosecutor of the International Criminal Tribunal for Rwanda and the establishment of an independent Appeals Unit would lead to savings in the budget of the International Criminal Tribunal for the Former Yugoslavia. The combined estimates for the two Tribunals reflected a net increase of $1.6 million and three posts.

4. The report contained in document A/58/366 outlined the reforms implemented by the Rwanda Tribunal to improve its legal aid system. While the process was ongoing, the measures already taken would lead to better management, monitoring and control of the expenses of the legal aid system. Those measures were related to the provision of assistance to defence teams under the Legal Aid Fund, the safeguarding of the integrity of the judicial process and the submission of claims for legal fees.

5. Concerning the second performance report of the International Criminal Tribunal for Rwanda for the biennium 2002-2003 (A/58/597), he said that the General Assembly was requested to revise the appropriation for 2002-2003 to $208.5 million gross, reflecting an increase of $4.5 million gross. In that connection, he noted that lower than anticipated requirements under post and travel owing to the slower pace of trial activities in 2002-2003 had been offset by the impact of changes in inflation.

6. Concerning the budget for the International Criminal Tribunal for the Former Yugoslavia for the biennium 2004-2005 (A/58/226), he said that the Tribunal would strive to bring all priority investigations to the indictment stage by the end of 2004. As investigations were completed, there would be a gradual reduction in the number of posts in the Investigations Division. That was reflected in the initial estimate for 2004-2005, which amounted to $329.6 million gross in nominal terms. As a result of the decision by the Security Council to appoint a separate Prosecutor for the Rwanda Tribunal, the overall requirements would be reduced still further to $327.3 million gross in nominal terms. Provision had been made in the budget for the delayed impact of growth in respect of the 90 posts approved as new posts for 2002-2003 but only partly funded in that biennium. Also, it was proposed that one P-4 post in the Office of the President should be reclassified to the P-5 level and four P-3 posts in the Chambers Legal Support Unit to the P-4 level. In addition, three posts financed from general temporary assistance were being proposed for conversion to temporary posts. The related increase in requirements would be offset by the abolition of 43 posts in the Investigations Division.

7. The recosting of the budgetary provisions for the International Criminal Tribunal for the Former Yugoslavia to 2004-2005 rates took account of the impact of changes in exchange rates ($45.6 million), and inflation ($12.2 million), adjustments to standard salary costs ($5.9 million) and the implementation of the International Civil Service Commission recommendation on net remuneration ($3.7 million).

8. The report contained in document A/58/288 described the progress made by the International Criminal Tribunal for the Former Yugoslavia in reforming its legal aid system, particularly with regard to rationalizing the costs of defence counsel and establishing indigence. Legal aid systems were inherently difficult to administer, as sensitive balances had to be struck between sometimes conflicting objectives. Respecting the accused's right to choose counsel might run counter to the Tribunal's responsibility to provide competent and effective counsel. The Tribunal had recently established a working group consisting of three judges and the Registrar to address those issues.

9. In the second performance report of the International Criminal Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/58/593), the General Assembly was requested to revise the appropriation for 2002-2003 to $288.3 million gross, representing an increase of $25.7 million gross, compared with the current revised appropriation. Net increases of $21.3 million and $3.8 million would be required to absorb the impact of changes in exchange rates and inflation, respectively. Also, there were additional requirements totalling $599,300 owing to changes in post incumbency. Those requirements were offset by savings under non-post object lines.

10. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related reports of ACABQ (A/58/449, A/58/554 and A/58/605), said that paragraphs 14 to 20 of document A/58/605 contained the comments and recommendations of the Advisory Committee on the second performance report of the International Criminal Tribunal for Rwanda for the biennium 2002-2003 (A/58/597). Subject to those comments and recommendations, the Advisory Committee recommended, in paragraph 20, that the General Assembly should approve the revised appropriation of $208.5 million gross for the Special Account for the Tribunal for 2002-2003.

11. Document A/58/554 contained the observations of the Advisory Committee on the budget for the Rwanda Tribunal for the biennium 2004-2005

(A/58/269). Its comments on the completion strategy developed by the Tribunal were contained in paragraphs 3 to 8. In paragraph 42, it stated that increasing the number of ad litem judges from four to nine would put the Tribunal in a position to complete all its trial activities very close to the end of 2008, the target set by the Security Council in its resolution 1503 (2003). Paragraph 32 contained the comments of the Advisory Committee on the comprehensive report of the Secretary-General on the progress made by the International Criminal Tribunal for Rwanda in reforming its legal aid system (A/58/366). In paragraph 44, the Advisory Committee recommended the appropriation of an amount of $251.4 million gross, which took account of the requirements for the five additional ad litem judges and the creation of the new post of Prosecutor of the Tribunal. In paragraph 31, it stressed the need for continued close collaboration and coordination between the Rwanda Tribunal and the International Criminal Tribunal for the Former Yugoslavia.

12. The comments of the Advisory Committee on the second performance report of the International Criminal Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/58/593) were contained in document A/58/605. In paragraph 13, it recommended that the General Assembly approve the revised appropriation of $288.3 million gross for the Special Account for the Tribunal for 2002-2003.

13. Document A/58/449 contained the comments of the Advisory Committee on the budget for the Tribunal for the biennium 2004-2005 (A/58/226). In paragraph 19, the Advisory Committee reiterated the need for close cooperation between the two Tribunals. In paragraph 34, it commented on the progress made by the Tribunal in reforming its legal aid system (A/58/288). In paragraph 38, it recommended, based on its observations and recommendations in paragraphs 22, 23, 24, 28, 31 and 33, that the estimated requirements for the Tribunal for 2004-2005 should be reduced by $20 million gross.

14. **Mr. Motomura** (Japan) said that, while the litigation process needed to be expedited at both Tribunals, the current budget levels should be regarded as the upper limit. The estimate for the International Criminal Tribunal for Rwanda for the biennium 2004-2005, however, represented an increase of 23 per cent; that was unacceptable to his delegation. His delegation did not deny the importance of promoting reconciliation in the Great Lakes region, but it was convinced that it was possible for the Rwanda Tribunal to avoid any further increase in its budget while adhering to its completion strategy by improving efficiency and shifting resources to priority areas. The number of posts, which had reached more than 1,000, should also be reviewed.

15. The time had come for a fundamental re-evaluation of the Tribunal, which had existed for almost 10 years without producing any significant results. In the course of that re-evaluation, it should be borne in mind that comparable bodies, including the Special Court for Sierra Leone, were funded through voluntary contributions and that the International Criminal Tribunal for the Former Yugoslavia was referring all but the most serious cases to national courts.

16. The Japanese contribution to the budget of the Rwanda Tribunal amounted to almost $20 million per annum, yet his delegation had not been privy to the discussions in the Security Council concerning the issues he had just raised. There was a clear need for a mechanism to facilitate dialogue between the Council and the major contributors to peacekeeping budgets and the budgets of the two Tribunals. Enhanced transparency and accountability would enable the Governments of those countries to continue to pay their contributions with the support of their taxpayers.

17. He noted with satisfaction that the budget for the Rwanda Tribunal for 2004-2005 was the first to be prepared using results-based budgeting techniques. It was not clear to him, however, why the proposed appointment of five additional ad litem judges would require 45 new support staff and resources of $12.2 million gross. By comparison, the General Assembly, in its resolution 57/289, had approved 42 temporary posts and resources of $4.7 million gross in connection with the appointment of four ad litem judges. He also wished to receive clarification concerning the additional requirements arising from the creation of the position of Prosecutor of the International Criminal Tribunal for Rwanda. He emphasized that, in order to curb the growth of the budget, the Secretariat should first try to redeploy existing resources before seeking new posts. Lastly, he proposed that an evaluation team consisting of representatives of Member States should be dispatched to the Rwanda Tribunal to consider its modus operandi and explore ways of rationalizing its

budget and achieving more efficient budget implementation.

18. **Ms. Lock** (South Africa), speaking on behalf of the African Group, reiterated the importance which the Group attached to the role of the United Nations in maintaining peace and security and its support for the work of the International Criminal Tribunal for Rwanda, which was making a vital contribution to the process of national reconciliation in that country. It was encouraged by the progress made by the Tribunal over the past few years, as demonstrated by the 15 judgements rendered since 1997. It noted that 41 detainees were either engaged in or awaiting trial and that the number of appeals was also on the increase. The Tribunal would thus have a heavy workload in 2004-2005, and it was imperative to ensure that it had adequate human and financial resources. The Group therefore welcomed the strengthening of the Tribunal's judicial capacity from four to nine ad litem judges, which, coupled with the creation of the position of Prosecutor of the International Criminal Tribunal for Rwanda and the establishment of an independent Appeals Unit, would enable the Tribunal to expedite its work. In that connection, she noted the observation of ACABQ that, should the Tribunal complete its trials by the end of 2008, the target set by the Security Council, savings of more than $300 million could be realized.

19. While the reduction in the vacancy rate for Professional staff from 26 per cent in 2001 to 20 per cent in 2003 was encouraging, the figure remained too high. The Group therefore urged the Tribunal to take additional measures to increase recruitment. It was pleased to note, however, that pivotal management positions, which had remained vacant for almost two years, had now been filled, facilitating the Tribunal's efforts to develop its completion strategy. That strategy should continue to focus on the Tribunal's broad mandate of contributing to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda and in the region. In that connection, it was important to ensure that sufficient funds were provided for the Tribunal's outreach programmes. She noted that, in the context of the completion strategy, the Prosecutor had identified almost 40 cases that could be tried by national jurisdictions. It was to be hoped that the budget for the next biennium would provide for the transfer of the trials to Rwanda and other countries. Noting that a donor conference had been convened at which resources had been pledged for the transfer of cases from the International Criminal Tribunal for the Former Yugoslavia, she urged the Secretariat to make similar arrangements in respect of the Rwanda Tribunal.

20. The Group was pleased to note that the budget for the Rwanda Tribunal for 2004-2005 made provision for the upgrading of prison facilities to international standards. While it was grateful to those Member States that were willing to imprison persons convicted by the Tribunal, it considered that the United Nations should contribute to the costs arising from the enforcement of sentences. The Tribunal was to be commended for presenting its budget in a results-based format and for ensuring that the objectives of the completion strategy were reflected in the budget proposal. The steps taken to increase judicial control over proceedings and expedite trials and appeals while giving due regard to the rights of the accused were most welcome. The implementation of the recommendations contained in document A/58/366 could lead to improvements in the management, monitoring and control of the expenses of the legal aid system. The Group looked forward to receiving further information concerning those efforts.

21. It was concerned, however, about the precarious financial situation of the two Tribunals. Noting that allotments to the Tribunals were issued in a piecemeal manner covering only two months at a time and that there was a need to cross-borrow, she urged Member States to ensure that the Tribunals received adequate and predictable financial resources to complete their respective mandates.

22. **Mr. Valenza** (Italy), speaking on behalf of the European Union, the acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the associated countries Bulgaria, Romania and Turkey and, in addition, Iceland, Liechtenstein and Norway, said that, although the European Union could not endorse the reduction of $20 million gross in the budget of the International Tribunal for the former Yugoslavia proposed by the Advisory Committee, it was willing to make economies in the budgets of both Tribunals. In that connection, he said that recosting of the proposed budget for the Tribunal for the former Yugoslavia should not be postponed. With regard to the Rwanda Tribunal, he noted that the relevant reports had been issued only very recently and that the related report of

the Advisory Committee was, therefore, by necessity, general in nature.

23. He reiterated the strong support of the European Union for the Tribunals and their role in putting an end to impunity for those guilty of the most serious violations of humanitarian law. The international community expected to see the application of fair and impartial justice in the trials of those accused. That principle could not, however, be separated from the need for efficient and effective management of the Tribunals. Member States had a collective responsibility to provide the Tribunals with the necessary resources to fulfil their mandates, and those resources must be applied in an efficient manner in order to ensure that indictees were brought to trial within an acceptable time frame and that trials were conducted effectively. Unfortunately, the Tribunals had failed to meet those requirements fully. With regard to the current budget proposals, the European Union would support a level of resources which would allow the Tribunals to implement their proposed work programmes but would also seek to impose appropriate budgetary discipline.

24. There had been some very positive developments. As noted by ACABQ, the presentation of both budgets represented a marked improvement on previous years. Not only had the Tribunals presented their budgets in a results-based format, but the quality of the presentation and the relevance of the indicators was commendable.

25. The comprehensive report on the progress made by the International Criminal Tribunal for the Former Yugoslavia in reforming its legal aid system (A/58/288) also contained encouraging information about the new systems for remunerating defence counsel and establishing indigence. The lump sum formula would not only result in budgetary savings but would also encourage all parties to cooperate with a view to conducting proceedings in a more efficient and transparent manner. However, he would have appreciated more information on the impact of those reforms on the projected defence costs for the Tribunal for the former Yugoslavia for the biennium 2004-2005 since, as ACABQ had pointed out, despite the reforms, savings had not been realized owing to a number of other factors.

26. Turning to the issue of defence costs for the Rwanda Tribunal, he said that the position was less clear-cut. Although the Registrar was to be commended for having taken steps to implement some of the recommendations contained in the consultancy report, the European Union remained uneasy that no clear plan of action or future targets for defence costs had emerged from the analysis undertaken. In that connection, it urged the Tribunal to agree upon and implement new procedures for the remuneration of defence counsel which would allow "equality of arms" for indictees but impose reasonable and enforceable limits on those expenses.

27. The European Union supported the institutional developments that had taken place within the Rwanda Tribunal and hoped that they would result in greater achievements. It welcomed the appointment of a separate Prosecutor and the Security Council's decision to allow up to nine ad litem judges to sit in order to speed up proceedings, and emphasized the need for regular cooperation between the two Tribunals. Nevertheless, the resource implications of those measures would be carefully considered. Resource and personnel increases would necessarily arise as a result of them, but the reasoning behind some of the proposed increases in Professional and support staff was questionable. Justification should be provided for the creation of additional posts.

28. He welcomed the Security Council's confirmation that it was within the lawful powers of the Rwanda Tribunal to fund the upgrading of prison facilities in States that had concluded agreements with the United Nations for the carrying out of prison sentences of the Tribunal, but wished to stress that such upgrades should be limited to absolutely essential work. He would appreciate further information on the progress of oversight activities in that respect.

29. The levels of the budgets for the two Tribunals were of concern to the European Union, given that the increases alone amounted to over $100 million per biennium. He recognized that those increases were mainly the result of recosting but expressed disappointment that such modest efforts had been made to offset currency problems with economy measures.

30. The General Assembly was due to review the biennial nature of the budgets for the Tribunals. Despite the many advantages of a biennial process, the European Union was of the opinion that the rapidly shifting nature of resource requirements, the uncertainties of the currency markets and the expected decrease in costs as the Tribunals implemented their

exit strategies might justify a return to an annual budgetary cycle. Lastly, the European Union had taken note of the fact that, as of the end of September 2003, 122 Member States had failed to contribute anything to either of the Tribunals in 2003. That was unacceptable, and he therefore echoed the call of the Under-Secretary-General for Management to all Member States to pay their assessed contributions in full.

31. **Ms. Yoon** Seong-mee (Republic of Korea) expressed her strong support for the work of the two Tribunals, which demonstrated the firm commitment of the United Nations to bringing to justice those who had committed unspeakable atrocities in the former Yugoslavia and Rwanda. She was keenly interested in the efficient and effective management of their work and, in that connection, welcomed the presentation of the budgets in a results-based format. Given that the completion strategies for both Tribunals had now been prepared, results-based budgeting could be used to ensure the timely and successful accomplishment of their work through the implementation of their respective road maps. She appreciated the submission of the completion strategy for the Rwanda Tribunal, but shared the view of ACABQ that it should be revised in order to take account of the recent organizational reinforcement measures.

32. The reform of the legal aid system was critical for the sound management of the Tribunals. Despite the continuous efforts of both Tribunals to rationalize their flawed legal aid systems, the effects of those efforts were not clear and there was more room for improvement. In addition, she was concerned about the continued high vacancy rate at the Tribunals, which hampered the sound planning of their work and placed additional burdens on existing staff. She encouraged the Secretariat to make further efforts to address that problem.

33. She welcomed the measures recently taken to strengthen the Rwanda Tribunal, in particular the appointment of a separate Prosecutor, the increase in the number of ad litem judges and the proposals for a new unit to handle the anticipated increase in appeals. Those measures should further facilitate the work of the Tribunal.

34. Lastly, she was pleased to note that the implementation of the completion strategy for the Tribunal for the Former Yugoslavia would be the main focus of its work during the biennium 2004-2005 and hoped that its efficiency would be increased through flexible organizational arrangements based on a potential decrease in its workload.

35. **Mr. Iosifov** (Russian Federation) said that the two international Tribunals had been established by the Security Council as temporary judicial organs entrusted with restoring and maintaining peace in their respective regions. While they had played an important role in the development of current international legal procedure in criminal matters, they had also been noteworthy for their low productivity and the high costs arising from their activities, and it was becoming increasingly difficult to justify their continued existence from a financial standpoint.

36. He would focus in his statement on the budget for the International Criminal Tribunal for the Former Yugoslavia for 2004-2005 (A/58/226). However, many of the observations he would make were also applicable to the International Criminal Tribunal for Rwanda. While the resources for the International Criminal Tribunal for the Former Yugoslavia for 2004-2005 reflected a decrease in real terms compared to the revised appropriation for 2002-2003, after recosting the estimate represented a significant increase. He was pleased to note, nevertheless, that the budget was presented for the first time in a results-based format.

37. He welcomed the inclusion in the budget proposal of measures for the gradual winding down of the Tribunal's activities, including the transfer of a number of cases to national jurisdictions. In the context of the completion strategy, it was proposed that 43 posts in the Office of the Prosecutor should be abolished and that 13 posts should be redeployed from that Office to the Registry in the second half of 2005. His delegation was not convinced, however, of the advisability of redeploying, rather than abolishing, the 13 posts. The volume of work in the Office of the Prosecutor should be regularly monitored so that posts could be abolished prior to the end of 2005, if appropriate. His delegation supported the recommendation of ACABQ that the proposals for the reclassification of a whole series of posts should be rejected. It agreed that the vacancy statistics for the Tribunal were unlikely to improve significantly, given the gradual winding down of its activities. The travel requirements for investigations seemed too high, taking into account the imminent reduction in investigative activities.

38. In the light of the potential economies he had cited, his delegation endorsed the recommendation of ACABQ that the estimated requirements for the Tribunal for the former Yugoslavia for the biennium 2004-2005 should be reduced by $20 million gross. It also shared the view of the Advisory Committee that it was not necessary to appropriate and assess at the current stage the full recosting provision projected for the next two years. Instead, the General Assembly should monitor the situation and revert to the issue in December 2004.

39. As to the second performance report of the International Criminal Tribunal for the Former Yugoslavia for the biennium 2002-2003 (A/58/593), he said that, while the significant increase in expenditure for the period was largely due to external economic factors, the overall additional requirements could have been lower if increases under certain budget lines had been avoided. The administration of the Tribunal should therefore ensure that expenditure under all budget lines was continuously monitored.

40. **Mr. Hønningstad** (Norway) said that the strong support of his delegation for the work of the Tribunals was well established. As well as contributing to peace and security in the former Yugoslavia and Rwanda and assisting in the process of rebuilding civil society under the rule of law, their work represented a historic step towards ending the tradition of impunity for mass atrocities by establishing effective systems of international criminal law. In addition, the judgements delivered by the Tribunals were essential contributions to jurisprudence in the field of international criminal law and paved the way for the work of the International Criminal Court. He noted, however, that the work of the Tribunals was dependent on the allocation of adequate financial resources and he stressed the importance of ensuring the flow of funds.

41. The documents before the Committee bore witness to positive developments. The report on the reform of the legal aid system of the Tribunal for the Former Yugoslavia was encouraging, and he welcomed the efforts that had been made to rationalize the costs of defence counsel by applying a lump sum formula and establishing indigence. He was confident that the measures already implemented and the planned future reforms would in no way compromise the principles of justice guaranteed by the legal aid system.

42. With regard to the Rwanda Tribunal, he had taken note of the measures proposed in document A/58/366 to improve the legal aid system in order to ensure the efficient use of resources and the protection of the integrity of the Tribunal's judicial process. He trusted that the Tribunal would continue to take steps to refine its operations in accordance with the recommendations of the consultancy report in order to improve the management, monitoring and control of the legal aid system.

43. Turning to the issue of completion strategies, he said that recent developments were promising. Bearing in mind the resources required to try the most serious international crimes, he was impressed and encouraged that the pace of the activities of the two Tribunals had reached an all-time high. Every Member State had a responsibility to help further that process and, in that regard, he echoed the concerns of the representative of Italy regarding the failure of many Member States to contribute to the financing of either Tribunal in 2003.

44. As for the budgets for the Tribunals, he said that he supported the appointment of a separate Prosecutor for the Rwanda Tribunal and welcomed the decision by the Security Council in resolution 1512 (2003) to increase the number of ad litem judges sitting at any one time to nine and to empower them to adjudicate over pre-trial matters. Those reforms would double the trial capacity of the Tribunal, thereby significantly accelerating the completion strategy. In that connection, he agreed that an increase in resources and personnel was legitimate. With regard to the powers of the Rwanda Tribunal to fund the renovation and refurbishment of prison facilities in States that had concluded agreements with the United Nations, he echoed the comments made by the representative of Italy. He also endorsed the views of the representative of Italy regarding the possible return to an annual budget cycle.

45. As far as the budget for the Tribunal for the Former Yugoslavia was concerned, he was not convinced that the reduction of $20 million proposed by ACABQ was justified. He would like to hear the Secretariat's views on the matter.

46. In conclusion, he emphasized the need for continued close collaboration and coordination between the two Tribunals so that they could successfully complete their mandates. Norway would

stand by its long-term commitment to the achievement of that goal.

47. **Mr. Hammerschmidt** (Canada), speaking also on behalf of Australia and New Zealand, said that the three countries demonstrated their support for the International Criminal Tribunals by paying their assessed contributions in full, on time and without conditions. Unfortunately, the vast majority of Member States did not do so, and the worsening pattern of underpayment was exacerbating an already untenable financial situation and calling into serious question the continued viability of the institutions and the desire of Member States to make international justice work. In that connection, he would like to hear the Secretariat's view as to the long-term financial implications for the Tribunals if Member States continued not to pay.

48. It was ironic that the low point in the Tribunals' finances came at a time of growing optimism about their ability to implement their mandates. Significant progress had been made on several fronts over the past year: key vacancies had been filled, the budgets had been presented in a results-based format for the first time and the Rwanda Tribunal had established a strategic-level management council to coordinate its administration. In addition, he was encouraged by the finalization of the completion strategies for both Tribunals and looked forward to the full integration of the completion strategies into the management and administration of both Tribunals.

49. Any optimism about the future of the Tribunals was, however, tempered by continued frustration with the overall lack of budgetary discipline. A number of Member States had made repeated calls for tighter budgetary control, a proactive approach to budgeting and the maximization of existing resources, but, despite assurances that internal measures would be taken to improve efficiency, there was little evidence that a new approach had taken hold. Incremental budgeting seemed to remain the underlying philosophy, with new costs simply added to the already large baselines. There was a need for greater emphasis on reprioritization and the redeployment of resources. Both budgets clearly demonstrated that streamlining and rationalizing the work of the Tribunals would be a priority for the forthcoming biennium. In that connection, he would like to know how the Tribunals planned to achieve those aims and what their expected impact would be.

50. He expected that considerable progress would be made in reforming the Tribunals' legal aid systems, since defence costs for both Tribunals had run well over budget in the past on account of a general weakness in managing, monitoring and controlling legal aid spending. In that regard, he was encouraged by the initiatives taken to date by both Tribunals in that area. The Tribunal for the Former Yugoslavia, in particular, had clearly made significant improvements to the administration of its legal aid system and he would be interested to know what material impact those reforms would have on legal aid costs and the administration of trial costs.

51. The issue of the role of defence in the overall work of the Tribunals had been overlooked in the discussion about legal aid. Defence was indispensable in trial work and therefore needed to be sufficiently addressed in discussions with the principal organs of the Tribunals. The legal professionals at the Rwanda Tribunal could also play a proactive role in the investigation of cases of alleged professional misconduct. No such mechanisms existed at present and as a result there were delays in trial work and high defence costs. While taking into account the need for independence, the defence should play some role in facilitating the trial process and act in a responsible manner. In that respect, the Rwanda Tribunal might benefit from lessons learned at the Tribunal for the Former Yugoslavia.

52. The three delegations for which he spoke would pay close attention to a number of other issues when considering the budgets of the two Tribunals. For instance, the planned reprioritization of resources upon completion of investigative activities was not synchronized with the timelines set out in their completion strategies and, as noted by ACABQ, the management of those resources was not transparent. He also requested justification for the maintenance of so many investigative posts and other resources to support investigative activities. In addition, the rationale for establishing a separate appeals unit needed further exploration.

53. With regard to the Rwanda Tribunal, he said that the creation of the position of a separate Prosecutor should necessitate only a slight increase in resources which could easily be met by redeployment and, although the appointment of five additional ad litem judges was a critical investment in the Tribunal's ability to implement its mandate, he would like to

know the basic justification of the resources requested, since nothing in the relevant proposal indicated whether those resources were appropriate or not. The budgets and each of the additional resource requests must be considered in the context of the Tribunal's expenditure patterns for the current biennium and, in that context, he requested an update on those patterns. He also noted that the repeated late issuance of the second performance reports was unacceptable.

54. In conclusion, he said that the work of the Tribunals was extremely important in the context of the international community's efforts to uphold international law by replacing a culture of impunity with a culture of accountability. To that end, the resources allocated to the two Tribunals must be used effectively, efficiently and in a way that maximized their chances of success.

55. **Mr. Shalita** (Rwanda) said that the International Criminal Tribunal for Rwanda had been established in November 1994 at the request of the Rwandan Government for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law. Rwanda attached great importance to bringing to justice the perpetrators of the genocide in which it had lost one million of its people. The culture of impunity that had fuelled and sustained State-inspired genocide and violence must be eradicated in Rwanda and elsewhere. The continued success of the reconciliation process depended on justice being done and being seen to be done by all Rwandans. The national courts had completed over 3,000 trials for various crimes related to the genocide. For lower-level crimes, the Government had introduced Gacaca community courts with elected judges which tried cases in the presence of members of the community and handed down sentences ranging from community service to short periods of imprisonment.

56. In its nine years of existence, the Rwanda Tribunal had made modest achievements in terms of arrests, trials and convictions, but those achievements had nevertheless had a positive effect in Rwanda. His delegation supported the report of the Secretary-General on supplementary estimates arising in respect of Security Council resolution 1503 (2003) (A/58/368) and the Advisory Committee's endorsement of that report (A/58/554). It hoped that the appointment of a Prosecutor and five additional ad litem judges, the increase in the number of trial chambers and the efforts of the Tribunal's new President to ensure more rapid trials would produce more progress in the coming years as the Tribunal implemented its completion strategy.

57. His delegation recognized that late or piecemeal payment by Member States of their assessed contributions to the budget of the Tribunal threatened the success of its completion strategy. It supported the recommendation of the Advisory Committee that the flow of funds should be maintained to enable the Tribunal to carry out its activities and complete its mandate.

58. Since 1994, Rwanda had been requesting that some trials should be conducted in its territory, so that Rwandans could witness them at first hand. It was pleased that the completion strategy called for cases to be transferred to national courts and that the Office of the Prosecutor planned to begin that process by 2006. Rwanda did not, however, have the resources to meet the costs involved, including the salaries and allowances for defence counsel, interpreters and translators, the construction of detention facilities and the modernization of existing court facilities and offices. Similar arrangements for the transfer of cases from the International Criminal Tribunal for the Former Yugoslavia to national courts were at an advanced stage and a donor conference had been convened. The Government of Rwanda wished the Secretariat to begin making such arrangements for the International Criminal Tribunal for Rwanda. Rules of procedure must also be established for the cases transferred.

59. He welcomed the comprehensive report on the progress made by the International Criminal Tribunal for Rwanda in reforming its legal aid system (A/58/366). Rwanda had repeatedly expressed concern about the systematic abuse of that system, particularly the practice of fee-splitting between the defence counsel and genocide suspects and the hiring of friends and relatives of such suspects as defence investigators or assistants. That concern had been confirmed when a defence investigator had been arrested and had himself been charged with genocide-related crimes. Such incidents had undermined the credibility of the Tribunal in the eyes of Rwandans. While the steps taken to eliminate abuse of the legal aid programme were positive, his Government wondered why they had not been put in place at the outset. It encouraged the Tribunal to involve the Rwandan national police in the vetting process for legal defence staff in order to

ensure that suspects were not recruited to such posts and paid from funds provided by Member States.

60. The system of billing for defence counsel was also open to abuse. Rwanda would like to see a stricter assessment of the hours billed and supported the recommendations in the consultancy report that a team should be appointed to evaluate the sums claimed, that a single person should assess the claims of all members of a defence team and that a single person should also assess the claims of all defence teams when more than one suspect was tried at the same time. That would avoid confusion, facilitate cross-checking and control duplication.

61. His delegation did not, however, support the recommendation that the lists of lead counsel, co-counsel, legal assistants and investigators should be open only to individuals resident in Africa, in order to reduce costs. That would be seen as discriminatory. The Tribunal was international, and individuals assigned to the same mandate must be treated equally.

62. The outreach activities of the Tribunal for Rwanda were critical. They were supposed to highlight the work of the Tribunal and promote justice and reconciliation in the country, but they had so far had no effect. As the Tribunal focused on its completion strategy, it should use the resources earmarked for communications and outreach in a more effective and targeted way.

63. The strategy of the Tribunal must be more proactive and less reactive. His Government favoured "town-hall" public awareness meetings, especially in those districts of Rwanda that were most affected by the genocide, or more aggressive use of radio, in collaboration with the Department of Public Information. Such outreach activities were vital in order to complement the Government's own efforts to promote unity and reconciliation. He asked that the next report of the President of the Tribunal should include a detailed outreach strategy, so that the Tribunal's performance in that area could be assessed.

64. **Ms. Nakian** (United States of America) said that her delegation continued to place great importance on the work of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and on their effective and efficient functioning. Significant changes in the Tribunals' operation had made it more essential than ever to pay close attention to them.

65. The presentation of the budgets for the Tribunals in results-based form was a positive development. With the new emphasis on keeping their work on track and looking ahead to the completion of their business, their activities should be kept within existing budget and staff allocations through greater efficiency and redeployment. She was concerned, however, that both Tribunals had failed to identify offsets and savings; as a result, there were considerable increases in the overall budget levels.

66. The escalating costs of the legal aid systems of both Tribunals were particularly alarming, and efforts should be made to contain them by rationalizing the costs of defence counsel and establishing indigence. She welcomed the limited achievements described in the comprehensive report on the progress made by the Tribunal for the Former Yugoslavia (A/58/288), including the introduction of a lump sum system to control and contain defence counsel fees and the appointment of a financial investigator to assess the ability of the accused to pay for their defence. The Tribunal should continue to implement and monitor the reforms. Her delegation expected subsequent reports to provide more specific information on the savings attributed to those reforms.

67. At the International Criminal Tribunal for Rwanda, the steps taken to allow trials to continue if a judge or counsel was ill or absent and the establishment of the New Trial Committee to encourage transparency and cooperation among the branches of the Tribunal were welcome, but more could and should be done. Her delegation was outraged by the finding described in the report of the Office of Internal Oversight Services (A/58/364, para. 70) that a member of the Finance Section of the Tribunal had repeatedly requested and received bribes from several members of defence teams. It was unacceptable that that individual was still employed instead of being immediately barred from any employment at the Tribunal.

68. Her delegation welcomed the steps taken to implement the recommendations in the consultancy report attached to the comprehensive report on the progress made by the Rwanda Tribunal in reforming its legal aid system (A/58/366, annex I), particularly the recruitment of a financial investigator and the lowering of the financial threshold to establish indigence for the accused. It suggested that the recommendation to reduce the maximum number of hours for which

defence teams could claim legal fees should be applied to trials and appeals as well as to the pre-trial stage. The Rwanda Tribunal should continue to implement the recommendations in the consultancy report and to consult the Tribunal for the Former Yugoslavia to benefit from the latter's experiences with similar reforms.

69. Turning to the budgets for the two Tribunals for the biennium 2004-2005, she said that her delegation endorsed many of the recommendations in the reports of the Advisory Committee (A/58/449 and A/58/554). It supported the proposed reduction in travel, overtime and consultant costs for the Registry and the Office of the Prosecutor for the Tribunal for the Former Yugoslavia. It agreed with the Advisory Committee's recommendation that the reclassification of four P-3 posts in the trial sections of that Tribunal should not be approved, because the reasons for it had not been fully justified and it would introduce yet another layer of hierarchy. It also shared the view of the Advisory Committee that the volume of work and the pace of completion of the Tribunal's business should be kept under constant review in order to identify posts that could be transferred or abolished by the end of 2004. Moreover, it welcomed the planned redeployments and abolition of posts, but insisted that the changes should take place immediately.

70. In the case of the Rwanda Tribunal, her delegation agreed that some additional personnel and resources were needed to support the new Prosecutor and ad litem judges, but it questioned the need for 45 additional staff to assist those judges, especially since a large increase in staffing had been approved for the previous biennium and the vacancy rate for posts was consistently high. She also wondered why, if the report of the Secretary-General on supplementary estimates arising in respect of Security Council resolution 1503 (2003) on the creation of a new position of Prosecutor (A/58/368, para. 11) had deemed a total of 17 posts in the Appeals Unit in The Hague to be enough to handle the appeals in both Tribunals, the Appeals Unit in The Hague and the Appeals Unit in Arusha each now needed 11 posts, making a total of 22 posts.

71. Her delegation was disappointed that the Advisory Committee had neither identified possible savings over the resource requirements described in the report of the Secretary-General on the budget for the Rwanda Tribunal for the biennium 2004-2005 (A/58/269), which stood at a substantial $235 million, nor given information on the budget assumptions used to estimate those resource requirements. Such assumptions covered matters such as inflation, exchange rates, post adjustment multipliers and vacancy rates for current and new posts. The budget proposal for the biennium 2004-2005 was 2.4 per cent higher than that for the biennium 2002-2003, but the Rwanda Tribunal had not identified any savings which might absorb the costs of the 109 new posts approved during the previous biennium. Furthermore, while the Tribunal had now developed a completion strategy, it had not identified the redeployment or abolition of posts or resources to reflect new stages in its programme of work.

72. She hoped that the Committee would be able to agree on reasonable budgets which could sustain the important work of both Tribunals as they moved forward with their completion strategies.

73. **Mr. Halbwachs** (Controller) said that a number of delegations had commented on the overall level of resources requested for the two Tribunals. He assured the Committee that the two budget proposals which the Secretariat had submitted were consistent with the resolution adopted by the General Assembly at its fifty-seventh session; in other words, the staffing tables for the biennium 2004-2005 remained within the bounds of those for the 2002-2003 biennium. Any increases in the resources requested were the result of recosting owing to inflation and currency fluctuations, or of new mandates received from the Security Council since the budget had been established, specifically the addition of ad litem judges and a separate Prosecutor for the International Criminal Tribunal for Rwanda.

74. Responding to the question put by the representative of Norway, he said that paragraph 38 of the report of the Advisory Committee (A/58/449), which called for a reduction of $20 million in the estimated requirements for the International Criminal Tribunal for the Former Yugoslavia for the biennium 2004-2005, required some interpretation. It was not clear to him whether the recommendation should be achieved through recosting, a cut in real resources or a combination of both. A reduction in real resources would probably be detrimental to the Tribunal's completion strategy timetable, and lower costs for the biennium 2004-2005 might translate into higher costs later as the Tribunal would need to remain in operation for longer in order to complete its mandate.

75. The representative of Canada had asked about the implications of continued non-payment of assessed contributions for the Tribunals. The Secretariat had so far borrowed $55 million from closed peacekeeping missions to keep the Tribunals in operation. That practice could not continue indefinitely: the resources of closed peacekeeping missions were finite and must eventually be returned to the Member States to which they were owed. If the current pattern of non-payment persisted, the Tribunals would not have enough resources to cover their budgets and the Secretary-General might have to inform the Security Council, perhaps sooner rather than later, that the Tribunals were unable to fulfil their mandates for financial reasons. He appealed to Member States to pay their contributions promptly and in full.

76. The representative of Canada had also commented on the issuance of the performance reports (A/58/598 and A/58/597). Those two reports had been issued in November 2003 in accordance with the biennial timetable applying to the Tribunals, and were therefore not in fact late. The practice was to issue them as early as possible, but there was a need to reflect both the pattern of expenditure over 20 months and the latest exchange-rate information.

Agenda item 120: Programme budget for the biennium 2002-2003 (*continued*)

Second performance report on the programme budget for the biennium 2002-2003 (A/58/558 and Add. 1 and A/58/604)

77. **Mr. Halbwachs** (Controller), introducing the second performance report on the programme budget for the biennium 2002-2003 (A/58/558 and Add.1), said that it provided an estimate of the anticipated final level of expenditures for the biennium 2002-2003, taking into account changes in parameters for inflation and exchange rates and cost-of-living adjustments compared with the assumptions made in the first performance report (A/57/616), which had been reviewed by the Committee and adopted by the General Assembly at its fifty-seventh session and which had formed the basis for the revised appropriation and estimate of income for the biennium. The revised requirements under the expenditure sections were $2,953.9 million, an increase of $62.8 million. The revised estimate under the income sections was $427.6 million, an increase of $13.2 million.

78. Actual expenditure and income information appeared in table 1 (para. 1). Additional requirements were broken down in table 2 (para. 2): $59.1 million owing to changes in exchange rates, $7.7 million to changes in inflation and $19.7 million to commitments entered into under the provisions of General Assembly resolution 56/256 on unforeseen and extraordinary expenses and in respect of the conference-servicing and support requirements of the Counter-Terrorism Committee of the Security Council. The same table summarized the cost reductions: $23.7 million resulting from variations in post costs and adjustments to other expenditure, based on actual and anticipated requirements, and $13.2 million resulting from increases in income.

79. The additional requirement of $59.1 million had been caused by changes in exchange rates across all duty stations with the exception of Addis Ababa, Mexico and Port of Spain, but most of the increase could be attributed to the weakening of the United States dollar against the Swiss franc (a cost of $44.5 million) and the euro (a cost of $10.3 million). For the revised appropriation for 2003, the rate assumed for the Swiss franc had been 1.575 to the dollar, but the average rate so far had been 1.359, creating a significant variance of 13.7 per cent. The rate assumed for the euro had been 1.073 to the dollar, but the average rate for 2003 had been 0.901, causing a variance of 16 per cent. The distribution of the increase by duty station was shown in table 4 (para. 6), while schedules 4 and 5 attached to the report set out the budgeted and realized rates of exchange for all duty stations.

80. The estimated additional requirement of $7.7 million for inflation was attributable to a series of factors. First were the increases in Professional salaries ($0.4 million) resulting from the post adjustment multipliers promulgated by the International Civil Service Commission in 2003, including new multipliers for Addis Ababa (effective May 2003) and New York (effective September 2003). Second were increases in General Service salaries ($2.3 million), since cost-of-living adjustments made in 2003 had been higher than anticipated for a number of duty stations. Table 5 (para. 11) provided a breakdown by duty station of post-related increases and decreases in expenditure resulting from inflation. Schedule 6 provided information on the evolution of the post adjustment indices by duty station, with a comparison

of the projected and actual rates, while schedule 7 provided information on cost-of-living increases for staff in the General Service and related categories. The effect of inflation on non-post items had given rise to an increase of $5.6 million, mainly owing to the pressure of inflation, to some extent in Addis Ababa, but mostly in New York, where market conditions in the insurance industry had forced up the cost of general insurance, after-service health insurance and the malicious acts insurance policy. The increases had been slightly offset by a decrease in staff assessment.

81. General Assembly resolution 56/256 spelled out the conditions under which the Secretary-General was authorized to enter into commitments to meet unforeseen and extraordinary expenses. Commitments in the amount of $14,559,300 were broken down in paragraph 16 of the report. The General Assembly had provided funds to meet the requirements of the Counter-Terrorism Committee between January 2002 and March 2003; since the Security Council had directed that Committee to continue its work, an additional appropriation of $5,094,100 had been requested. A breakdown of that sum was provided in paragraphs 17 to 22 of the report.

82. Paragraphs 30 to 43 of the report and schedule 2 provided details of the cost reduction of $23.7 million resulting from post incumbency and other changes, including the difference between realized vacancy rates and those assumed for the appropriation, differences between actual and average salary costs and adjustments to other objects of expenditure. Schedule 8 provided information on average vacancy rates by budget section. The realized rate of 6.2 per cent for Professional staff was slightly lower than the approved budget rate of 6.5 per cent, and the realized rate of 3.4 per cent for General Service staff was slightly higher than the approved budget rate of 3.1 per cent. Table 6 (para. 45 of the report) provided a breakdown of the increase in income of $13.2 million.

83. The Secretariat was obliged to report on unliquidated obligations. In paragraph 44 of the report it was explained that the amount of such obligations had been $99.7 million at the end of September 2003; that was significantly better than two years previously. The report also indicated, in paragraph 49, the anticipated level of compensation payments arising from judgements of the United Nations Administrative Tribunal, which was $561,643.

84. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the report of the Advisory Committee (A/58/604), said that the projected expenditure for the biennium 2002-2003 was estimated to be $2,953.9 million, an increase of $62.8 million compared with the revised appropriation for that biennium. Those amounts should be considered in the light of the comments contained in the report of the Advisory Committee.

85. He drew attention to paragraph 9 of the report, in which the Advisory Committee requested the Secretariat to review whether the commitments made to cover the requirements of the International Court of Justice were sufficient, since it had already concurred to an additional request from the Secretary-General in that connection. The Advisory Committee had commented on the same issue in its first report for the biennium 2004-2005. He also drew attention to the statement in paragraph 13 of the report concerning the lack of information on savings resulting from efficiency measures that could be transferred to the Development Account.

86. Paragraphs 15 to 21 of the Advisory Committee's report contained information regarding the review of the United Nations Postal Administration. One of the Secretary-General's proposals would require an exception to financial rule 103.7 so that surpluses from the operation of the United Nations Postal Administration could be retained to meet its contingent liabilities. The extent of those contingent liabilities was not currently known. Negotiations were in progress between the United Nations Postal Administration and local postal authorities and the Advisory Committee encouraged the administration to make further efforts to promote their success. In the meantime, the Advisory Committee recommended that the current arrangements for accounting for the sale of United Nations stamps should be continued and it therefore did not recommend that an exception to financial rule 103.7 should be granted.

87. The Advisory Committee's comments on measures to strengthen the safety and security of United Nations premises and staff could be found in paragraphs 22 and 23 of its report. Its comments on potential additional requirements would be submitted to the General Assembly at a later stage.

88. **Mr. Martini** (Italy), speaking on behalf of the European Union, the acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the associated countries Bulgaria, Romania and Turkey and, in addition, Iceland and Liechtenstein, said that the late issuance of the relevant reports of the Secretary-General and ACABQ meant that the information contained therein was less useful than it could have been. In future, second performance reports should be published before the work of the Fifth Committee began so that Member States would have enough time to analyse them and draw conclusions.

89. He was aware that unfavourable rates of exchange of the United States dollar, together with inflationary increases, both variables beyond the control of the Secretariat, were the main cause of the increase in requirements for the biennium 2002-2003. In addition, he understood that unforeseen and extraordinary expenses arising from, inter alia, safety and security and counter-terrorism activities represented around 40 per cent of the net additional requirements. The Counter-Terrorism Committee had required additional resources amounting to $12 million, a figure that far exceeded predictions made one year previously. Further work was needed to put the Committee's finances on a sounder and more consistent footing. He stressed that one-off expenses must not constitute the basis for automatic increases in expenditure.

90. He welcomed the fact that unliquidated obligations for the biennium 2002-2003 were significantly lower than they had been at the end of September 2001 and encouraged the Secretariat to continue that positive trend. He shared the view of ACABQ that the second performance report should, for the purposes of consistency with results-based budgeting techniques, cover both programme and financial performance for the same period. Financial performance reporting should be based on actual expenditures for the first 21 months of the budget period.

91. He recalled that, when considering the corresponding report for the biennium 2000-2001, the Committee had been faced with a major overspend in the area of conference services, owing principally to the impact of additional meetings on the budget. By using the time allocated more effectively and refraining from holding meetings in the evening or at night, Member States had enabled the Department for General Assembly and Conference Management to adhere more closely to its forecasts. The economies realized from that move were not reported in the second performance report, but in future he expected such initiatives to be accounted for, since meeting discipline was a positive development that could be taken further.

92. Turning to the review of the United Nations Postal Administration, he said that the initial results achieved as a result of the reform process were encouraging. The European Union had actively supported the initiatives to streamline and consolidate the activities of the European offices and looked forward to the restructuring of the New York office in 2004. With regard to the proposal contained in paragraph 24 concerning the need to build a financial reserve, he said that the size of such a reserve fund had not yet been determined and that he would therefore prefer to wait and see whether the future initiatives undertaken by the Secretary-General would yield the expected positive financial results. He looked forward, in particular, to the development of an integrated web site for all United Nations Postal Administration offices and the rationalization of philatelic publications.

93. **Mr. Repasch** (United States of America) said that the performance report, by practice and by necessity, had been issued late in the General Assembly session. The Advisory Committee had covered the most important issues thoroughly, so he wished to focus on its comments.

94. He agreed with the recommendation in paragraph 2 of the Advisory Committee's report (A/58/604) that a single report on programme and financial performance should be issued, using a single reporting cycle, and that the first trial report of that kind should be made ready for submission to the General Assembly at its fifty-ninth session. His delegation had noted the Advisory Committee's recommendation that the next report should be made consistent with results-based budgeting and should be submitted to the General Assembly through the Committee for Programme and Coordination. He wondered whether the final figure provided by the Controller earlier in the meeting had included the cost of the United Nations Mission in Côte d'Ivoire (MINUCI). His delegation had noted the concern expressed by the Advisory Committee in paragraph 11 of its report that vacancy rates at the Economic

Commission for Africa continued to be high and that special measures should be implemented on an urgent basis to address that problem. However, such concern had been expressed very often in the past and he wished to hear what possible solutions remained.

95. His delegation had been among several to have expressed concern in the past about the continuing downward spiral in the operations of the United Nations Postal Administration, and it therefore welcomed the issuance of a report on that issue (A/58/558/Add.1). Although it was pleased that the United Nations Postal Administration's activities had been stabilized, that its expenses had been reduced and that a small surplus was generated, it was alarmed at what it saw as an ominous statement in paragraph 10 of the report that there existed a hidden, yet very serious, liability threat to the United Nations Postal Administration because any of the $344 million worth of stamps sold could be redeemed for postage. He asked if the United Nations Board of Auditors had ever taken up the matter. He also wondered why the Board of Auditors had not recommended the establishment of a reserve many years earlier to cover just such a liability.

96. His delegation agreed with the Advisory Committee that the proposal to grant an exception to financial rule 103.7 in order to retain surpluses from the operation of the United Nations Postal Administration involved too many unknown factors and that there should be no departure from existing arrangements for accounting for sales.

97. **Ms. Goicochea** (Cuba) noted that the Advisory Committee was recommending a change in the current practice of reporting separately on programme and budget performance and that the Secretary-General intended to submit a combined report on the biennium 2002-2003 to the General Assembly at its fifty-ninth session (A/58/604, paras. 2 and 3). Since it was the General Assembly that must decide on any such change in format, she asked whether the Secretary-General intended to submit his report only after the General Assembly had reached a decision.

98. Her delegation endorsed the course of action recommended by ACABQ in connection with the higher unforeseen expenses of the International Court of Justice (A/58/604, para. 9). It believed that the fact that the realized vacancy rate for the Professional category and above was lower than the approved budgeted rate (A/58/604, para. 10) was perfectly in line with the stipulations of resolution 56/253.

99. Like the Advisory Committee, her delegation would like information about any savings that could have been transferred to the Development Account. It welcomed the significant lowering of unliquidated obligations during the previous biennium and hoped that the trend would continue.

100. In connection with the report of the Secretary-General (A/58/558), she asked the Secretariat to specify the amount of the additional requirements resulting from decisions of the Economic and Social Council that were to be absorbed, both in total and by budget section. Also, she would like to know whether the additional requirements for new equipment under budget section 27 C had been foreseen and were in line with replacement standards and, in view of the uncertainty surrounding the capital master plan, would appreciate more information on the savings by the Department of Public Information that had been used to offset the additional costs under section 3.

101. Concerning the United Nations Postal Administration, her delegation agreed with the Chairman of the Advisory Committee that an exception should not be made to financial rule 103.7 in order to establish the reserve fund proposed by the Secretary-General (A/58/558/Add.1, para. 24). It was, moreover, concerned that the proposal to market personalized stamps for profit would not be in keeping with the Organization's international nature; it believed that United Nations stamps should reflect the causes it espoused.

102. **Mr. Yamanaka** (Japan) noted with concern that the second performance report showed the United Nations to be in the same financial situation as it had been two years earlier. Furthermore, no justification had been given for some items requiring additional expenditures. His delegation intended to ask the Secretariat for clarification in detail during the informal consultations on such matters as exchange rates, commitment authority and security and safety.

103. **Mr. Elji** (Syrian Arab Republic), noting the unfortunate delay in the issuance and introduction of the second performance report, said that the slight improvement in the efficiency of the United Nations Postal Administration was not sufficient, especially in view of its performance during the 1980s and 1990s, and that it was inappropriate for the United Nations as

an international organization to introduce personalized stamps and to finance them from outside sources through competitive bidding. It would like more information on the projects under way to enhance security and safety of the United Nations premises and the compatibility of those projects with the medium-term plan. It would also like to know whether any efforts had been made to avoid duplication of resources within the plan itself. Moreover, it would like to have the most recent monthly data on the exchange rates between the dollar and the euro and the dollar and the Swiss franc.

104. **Mr. Halbwachs** (Controller), responding to the questions that had been raised, observed that, by its very nature, the performance report had to be prepared on the basis of 20 months of expenditures, using the latest possible exchange rates. To prepare it any earlier, before the start of the General Assembly as had been suggested, would make it meaningless and inaccurate.

105. The United Nations Mission in Côte d'Ivoire had not been included in the second performance report but its requirements would have to be added to those in the report.

106. Regarding a future combined report on programme performance and budget performance, he said that at the current stage the plan was never to produce such a report but rather to continue to report on financial performance as usual. What was envisaged was to expand the programme performance report currently being prepared by the Office of Internal Oversight Services for issuance in spring 2004 by including detailed financial information linking programme and financial performance. Combined reports would not be meaningful before the end of a biennium.

107. He would obtain the requested details on the additional requirements relating to decisions of the Economic and Social Council that it had been possible to absorb. The Council's decisions, having appeared in late summer, had had a minimal impact on 2003. He would also obtain the information requested regarding stamp issues.

108. The additional equipment requirements under budget section 27 C related to the replacement of obsolete computers in the Office of Human Resources Management that would no longer be maintained by the Information Technology Services Division and therefore had had to be replaced. The Department of Public Information had deferred purchasing a new radio/television digital studio because it would have been imprudent to build a new studio before the general rebuilding scheduled under the capital master plan over the next two years.

Agenda item 120: Programme budget for the biennium 2002-2003 (*continued*)

Agenda item 121: Programme budget for the biennium 2004-2005 (*continued*)

Administrative expenses of the United Nations Joint Staff Pension Fund (A/58/7/Add.9 and A/58/214 and Corr.1)

109. **Mr. Cochemé** (Secretary of the United Nations Joint Staff Pension Board and Chief Executive Officer of the United Nations Joint Staff Pension Fund), introducing the report of the Standing Committee of the United Nations Joint Staff Pension Board (A/58/214 and Corr.1), said that, owing to the biennialization of the work programme of the Fifth Committee, the report covered only the Pension Fund programme budget for the biennium 2002-2003 and its proposed programme budget for the biennium 2004-2005.

110. The overview given in part I indicated that administrative and financial operations had continued to grow in size and scope, and there had been a corresponding increase in the number of benefits in payment, at an average annual rate of over 4 per cent, to over $1.1 billion in 2002. The market value of the Fund's assets had risen to $24.5 billion, compared with $20.9 billion at the end of 2002. Summary tables were provided for the three components of the administrative expenses of the Fund — administrative, investment and audit costs — indicating the post requirements and other resources requested. A fuller explanation of the budget methodology was provided in annex IV.

111. The budget estimates for the biennium 2002-2003 were to be found in part II, and those for the biennium 2004-2005 in parts III to V. No additional resources were being requested for the biennium 2002-2003, but some costs would be carried over and there would be some net savings, as indicated in paragraph 9 of the report. However, the relocation costs would be covered from those expected savings, so that the overall appropriations had not been adjusted downward, and

any ultimate savings would be transferred to the principal of the Fund.

112. The actual budget estimates for the biennium 2004-2005, outlined in table 2, were discussed in part IV, with explanations of the resource growth and/or savings for each component of the budget. The detailed explanations in paragraph 20 were of particular interest. The Standing Committee's proposal regarding the Emergency Fund was to be found in part V of the report (para. 203).

113. Concerning audit costs (paras. 197-199), the Standing Committee had approved the resources requested under external audit costs but had reduced the resources for internal audit costs. Annex II, section C, explained the Standing Committee's concerns over the past performance of the Office of Internal Oversight Services as the internal auditors of the Fund. The repeated failure of the Office to audit the administrative and investment activities of the Fund in accordance with commonly accepted industry standards had finally led the Standing Committee to recommend that a small internal audit unit should be established within the Fund secretariat. To compound the problem, the Office had taken a unilateral decision, beyond its mandate, to audit the Fund's governance mechanisms; that would include the Pension Board, the Standing Committee, ACABQ and the Fifth Committee.

114. The Standing Committee had formed an in-session tripartite working group to examine the budget proposals for the biennium 2004-2005, and had approved its conclusions, which were summarized in annex I, as being in line with the Fund's objectives and action plans originally delineated in 2001. Action on the organizational expansion needed for strategic and risk-reduction purposes had been deferred at the time, pending a whole-office review by an outside consulting group. That group's general endorsement of the Fund's approach had in turn been endorsed in 2002 by the Pension Board, and the Standing Committee, after a further review of the plans in 2003, had shown strong overall support for them.

115. The action plans having budgetary implications for the biennium 2004-2005 were intended to address the risks inherent in the complex and growing demands on the Fund, and to further the Fund's priorities to align resources to activities, strengthen its structure, complete the information technology re-engineering project, and rent new outside premises. On that last point, it would be noted (annex I, section C) that the Fund was now seeking new premises on an urgent basis. The Fund was committed to providing pensions and related benefits to its retirees and their beneficiaries in the best conditions of security, performance, responsibility and accountability.

116. In conclusion, he said it should be noted that the Advisory Committee, in its report (A/58/7/Add.9), had expressed support for most of the recommendations and budget estimates of the Standing Committee.

117. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the report of the Advisory Committee regarding the administrative expenses of the United Nations Joint Staff Pension Fund (A/58/7/Add.9), said that the Advisory Committee agreed with the revised appropriation for the administrative expenses of the Fund for the biennium 2002-2003, which reflected a saving of $5.1 million (para. 5). The proposed budget for the biennium 2004-2005 was examined in paragraphs 7 to 10, and the Advisory Committee's views were given in paragraphs 11 to 20. The Advisory Committee had agreed with most of the recommendations.

118. Regarding the rental of new premises (paras. 21-22), ACABQ had exchanged views with the Chief Executive Officer of the Fund and representatives of the Secretary-General, and the additional information it had received was included in annex II. The Advisory Committee had some concerns regarding the increase in travel costs (para. 23). Concerning audit costs (paras. 24-27), the Advisory Committee recommended that neither the current arrangements nor the role of the Office of Internal Oversight Services should be changed pending receipt of the report of the Board of Auditors. In the meantime, however, discussions should continue between the Fund and the Office of Internal Oversight Services. He had the impression that it was a family feud that could be resolved with goodwill on both sides, especially given the fairly good collaboration with auditors in the past.

119. The Advisory Committee recommended that the revised estimates for the biennium 2002-2003 should be approved in the amount of $80.3 million and that the proposed budget for the biennium 2004-2005 should be approved in the amount of $94.7 million.

120. **Mr. Repasch** (United States of America) expressed his appreciation to Ms. McLurg for her years of dedicated service to the Pension Board.

121. The report of the Standing Committee of the United Nations Joint Staff Pension Board on the administrative expenses of the United Nations Joint Staff Pension Fund (A/58/214 and Corr.1) provided a useful overview of the Fund's organization and operations, together with a detailed narrative of its budget proposals for 2004-2005. Despite fluctuations due to market forces, the Fund had experienced dramatic growth in recent years, both in terms of the number of participants and its payouts, and it continued to be a solid guarantor of pension benefits for retirees.

122. His delegation supported the operations of the Pension Fund and endorsed the general thrust of the report of ACABQ (A/58/7/Add.9). However, he noted that a substantial amount of unspent funds would be left at the end of the current budget period and asked for an update on the specific amounts involved and their proposed disposition. He enquired about management's efforts to scrutinize current post allocations with a view to redeploying posts and other resources to higher priority areas, and requested information about instances in which posts had been abolished or downgraded to meet the changing needs of the Fund.

123. He would like an update on the status of the Fund's move to a nearby office building, including the latest costs estimates and a timetable for the completion of the move. He wondered whether any consideration had been given to moving all or part of the Fund to an area where rents were lower. He expressed concern about the 30 per cent increase in travel requirements and requested additional justification for that increase.

124. Given that effective oversight was a critical component of the Fund's operations, he had been shocked to learn that the Standing Committee had recommended firing the Office of Internal Oversight Services and replacing the United Nations auditors with a new internal audit office. He wished to state clearly his opposition to that recommendation and requested a full explanation of the Standing Committee's decision. In accordance with its mandate, the Office of Internal Oversight Services had authority to oversee the staff and resources of the Organization and, since a substantial amount of the Fund's resources were derived from the United Nations, it went without saying that the Office would continue to provide internal oversight of the Fund. If the Fund's management believed that additional oversight services were necessary, he would be interested in hearing its proposals.

125. **Ms. Goicochea** (Cuba) suggested that the auditing role of the Office of Internal Oversight Services should be discussed during the informal consultations.

126. **The Chairman** said that the questions raised by the United States representative would be dealt with during the informal consultations and that note had been taken of the request of the Cuban representative.

Agenda item 12: Report of the Economic and Social Council (A/58/3 (part I, chap. 1))

Delegation of formal authority in matters of personnel of the United Nations Population Fund (A/C.5/58/2 and Corr.1)

127. **The Chairman** said that the Committee had before it a note by the Secretariat (A/C.5/58/2 and Corr.1) drawing the Committee's attention to Economic and Social Council decision 2003/224 in which the Council recommended that formal authority in matters of personnel of the United Nations Population Fund should be delegated by the Secretary-General to the Executive Director of the Fund.

128. **Mr. Agyeman** (Ghana) said that such a transfer of authority would be in the interests of efficiency and accountability within the United Nations system. The decision defined the lines of authority both at Headquarters and in the field, and had been endorsed by all the bodies concerned.

129. **Mr. Repasch** (United States of America) proposed that the Chairman should submit a text for action under agenda item 12 at the next formal meeting rather than in informal consultations.

130. **The Chairman** said that he took note of that suggestion.

The meeting rose at 12.45 p.m.